

**Memorandum of Understanding  
between the  
Federal Highway Administration, California Division,  
and the  
Federal Transit Administration, Region IX**

This Memorandum of Understanding (MOU) is prepared and entered into by and between the Federal Highway Administration (FHWA), California Division, hereinafter referred to as FHWA, and the Federal Transit Administration (FTA), Region IX, hereinafter referred to as FTA, and for purposes of this agreement, hereinafter referred to collectively as the parties.

**Background**

In response to state and local transportation stakeholders' need for a more streamlined, transparent, and less duplicative federal process, Federal Highway Administrator Mary E. Peters and Federal Transit Administrator Jennifer L. Dorn executed a National Memorandum of Action (MOA) for the collaborative administration of transportation planning and programming activities on September 2, 2003. The National MOA outlines the guiding principles and the mechanisms needed to facilitate FHWA and FTA's fulfillment of joint metropolitan and statewide planning obligations. It also establishes a framework for exploring innovative approaches to satisfying our responsibilities for transportation planning and the programming of federal transportation funds.

**Purpose**

In the spirit of the National MOA, this agreement sets forth the general terms and conditions for collaboration between FHWA and FTA to enhance the coordination of transportation planning processes and to successfully fulfill our joint planning and programming responsibilities.

**Scope**

This MOU covers the primary activities that require joint action or participation by the parties pursuant to Title 23 of the Code of Federal Regulations (CFR) Part 450, 23 CFR Part 420, 49 CFR Part 613 and 40 CFR Part 93. Specifically, the following activities are addressed:

- Acting on the Federal Statewide Transportation Improvement Program (FSTIP);
- Acting on Federal Transportation Improvement Programs (FTIPs) and FSTIP Amendments;
- Acting on Overall Work Programs (OWPs);
- Acting on OWP Amendments;
- Conducting Transportation Management Area (TMA) Certification Reviews;
- Making Program Eligibility Determinations; and,
- Issuing Air Quality Conformity Determinations.

In addition to covering the above activities, this MOU contains a dispute resolution process that the parties agree to follow if needed. In general, the parties also agree to collaborate and cooperate on activities beyond those listed above as the need arises. For instance, the parties will jointly provide assistance and guidance to the California Department of Transportation (Caltrans)

and metropolitan planning organizations (MPOs) on transportation planning and programming-related activities, such as multimodal corridor studies, financial planning, project cost estimation, public involvement, and the like. To this end, the parties' planning directors agree to meet on a quarterly basis to discuss their involvement in planning activities that are underway and other pending issues that require joint action.

This MOU supersedes any and all previous agreements entered into by the parties relating to federal transportation planning and programming actions. However, it does not apply to the planning and programming actions undertaken by FHWA and FTA staff operating in the Los Angeles Metropolitan office relating to the Southern California Association of Governments metropolitan planning region. The Los Angeles Metropolitan office operates under a separate agreement.

## **FSTIP**

### ***Background***

The parties will take action on the FSTIP in accordance with 23 CFR 450.220.

### ***Roles and Responsibilities***

1. The FSTIP shall be submitted concurrently to FHWA and FTA.
2. FHWA shall be the lead agency in coordinating the review and action on the FSTIP.
3. After formulating and gathering all of the comments, FHWA shall coordinate, prepare and sign the joint signature letter.
4. FTA shall promptly sign the joint signature letter upon receiving it from FHWA.
5. Final dissemination of the letter shall occur in accordance with the office procedures established and agreed to by the parties' support staff.
6. The parties are committed to issuing the FSTIP action and finding within 30 days of receiving an approvable FSTIP from Caltrans.

## **FTIP/FSTIP Amendments**

### ***Background***

This section covers the review and action on FTIP/FSTIP amendments containing only changes or projects that are exempt from the air quality conformity determination requirement in accordance with 23 CFR 450.216 and 450.326. It describes the process that will be followed for multi-mode amendments, which contain both FTA and FHWA-funded projects, and single mode amendments, which contain only FTA or FHWA-funded projects. In both cases, the parties will commence the official review and action process upon receipt of the MPO-approved amendment from the Governor or Governor's designee, typically Caltrans.

### ***Roles and Responsibilities for Multi-mode Amendments***

1. Multi-mode amendments shall be submitted concurrently to FHWA and FTA.
2. FHWA shall be the lead agency in coordinating the review and action on multi-modal FTIP/FSTIP amendments.
3. Upon receiving a multi-mode amendment, the parties shall review and discuss the amendment.

4. Upon reaching an agreement on the response to the request, FHWA shall coordinate, prepare and sign the joint signature letter.
5. With FTA's concurrence, FHWA shall sign the letter on FTA's behalf using the FTA signature stamp or electronic signature.
6. Final dissemination of the letter shall occur in accordance with the office procedures established and agreed to by the parties' support staff.
7. The parties are committed to completing the FTIP/FSTIP amendment review and action process within 30 days of receiving the amendment request.

### ***Roles and Responsibilities for Single Mode Amendments***

1. Single mode amendments shall be submitted to the agency of jurisdiction, or acting agency.
2. The agency that has jurisdiction over the projects in the amendment shall act on behalf of both parties in responding to the amendment request.
3. The acting agency shall confer with the other party to confirm that the request should be acted on as a single mode amendment.
4. The single signature letter responding to the request shall mention the consultation between the parties.
5. The acting agency shall forward a copy of the letter to the other agency.
6. This section of the agreement shall not be invoked, but rather the multi-modal amendment procedures shall be followed, under the following circumstances:
  - a. the amendment includes flexible funding or transfer projects (requiring a joint action letter); or
  - b. the amendment includes projects that could interfere with the timely implementation of Transportation Control Measures (TCMs) (requiring a joint action letter).
7. The acting agency is committed to completing the FTIP/FSTIP amendment review and action process within 30 days of receiving the amendment request.

## **OWP**

### ***Background***

The parties will take an action on OWPs in accordance with 23 CFR 450.314.

### ***Roles and Responsibilities***

1. Draft and final OWPs shall be submitted concurrently to FHWA and FTA.
2. Upon receipt of the draft OWP, a 30-day review period shall be initiated.
3. The parties shall respond with individual comments on the draft OWP to the MPOs.
4. Each party shall provide a copy of its comments to the other party.
5. FTA shall be the lead agency in coordinating the final OWP review and action process and shall act on behalf of both parties in taking action on the final documents.
6. Upon receipt of the final version of the OWPs, FTA shall initiate, if necessary, a meeting to discuss and resolve comments not adequately addressed in the final documents.
7. FTA shall coordinate and prepare one, single signature letter taking action on all of the final OWPs.
8. The single signature letter shall mention the consultation between the parties.

8. FTA shall distribute the final letter to Caltrans, the MPOs, and FHWA.
9. The parties are committed to completing the final OWP review and action process within 30 days of receiving the final documents.

## **OWP Amendments**

### ***Background***

The parties will consider OWP amendments that comply with the planning grant regulations as outlined in 23 CFR Part 420 Subpart A.

### ***Roles and Responsibilities***

1. FTA shall be the lead agency in coordinating the OWP amendment review and action process and shall act on behalf of both parties in responding to the amendment request.
2. Upon receipt of an OWP amendment, FTA shall initiate a meeting with FHWA to discuss the amendment if necessary.
3. FTA shall coordinate and prepare a single signature letter for the OWP amendment.
9. The single signature letter shall mention the consultation between the parties.
4. FTA shall distribute the final letter to the state, MPO, and FHWA.
5. The parties are committed to completing the OWP amendment review and action process within 30 days of receiving the amendment request.

## **TMA Certification Reviews**

### ***Background***

In accordance with 23 CFR 450.334, FHWA and FTA must jointly certify the metropolitan transportation planning process in Transportation Management Areas (TMA) at least every three years. A TMA is an urbanized area, as defined by the U.S. Census, with a population of over 200,000. The reviews generally consist of three primary activities: a site visit, a review of planning products (in advance of and during the site visit), and preparation of a report that summarizes the review and offers findings.

### ***Roles and Responsibilities***

1. The parties shall jointly set a tentative schedule for reviews that are to be initiated in the upcoming calendar year.
2. FHWA shall be the lead agency in conducting reviews.
3. Any alterations in the lead agency for a particular certification review shall be discussed and agreed upon during the development of the schedule.
4. FHWA shall initiate the review discussions with FTA, the TMA and other relevant agencies.
5. FHWA shall assemble a federal review team consisting of FHWA and FTA staff to coordinate and conduct the review.
6. FHWA shall, in a single signature letter, officially notify the TMA of the review.
7. The parties shall work jointly to coordinate the pre-site visit activities, site visit and public involvement efforts with the TMA.
8. The parties shall attend the site visit and public involvement listening session(s) as scheduled.

9. Within 10 days of completing the site visit, the federal review team shall reach a consensus on the review findings.
10. If the findings agreed to in step 9 differ significantly from those presented to the MPO during the site visit close out session, FHWA shall communicate the findings to the MPO as soon as possible.
11. The parties shall invoke the dispute resolution process to settle differences on the review findings if necessary.
12. The parties shall agree on the review findings before preparing the draft report and circulating it to external agencies.
13. FHWA, with FTA's input and assistance, shall prepare the first draft report and circulate it to the federal review team for a 15-day review and comment period within 60 days of completing the site visit.
14. FHWA shall promptly incorporate, as appropriate, the federal review team's comments.
15. FHWA shall, within 90 days of completing the site visit, circulate a second draft of the report for a 15-day review and comment period to the external agencies that participated in the review.
16. The parties shall discuss and address, as deemed appropriate, the external agencies' comments.
17. Barring the need to use the dispute resolution process, the parties are committed to issuing a joint signature letter transmitting the final report within 120 days of completing the site visit.

## **Program Requirements and Eligibility Determinations**

### ***Background***

Pursuant to 23 USC, FHWA is the federal agency responsible for ensuring compliance with federal requirements in the delivery of the federal-aid highway program. Likewise, FTA is responsible for the delivery of the federal transit act program under 49 USC. Because projects will often include both federal-aid highway and transit program funds, the parties will consult with each other and coordinate responses to questions about federal requirements or program fund eligibility for said projects.

### ***Roles and Responsibilities***

1. FHWA shall respond to questions about requirements or program fund eligibility for projects funded with the federal-aid highway program funds and share its response with FTA as appropriate.
2. FTA shall respond to questions about requirements or program fund eligibility for projects funded with the federal transit program funds and share its response with FHWA as appropriate.
3. The parties shall jointly respond to questions about requirements or program fund eligibility for projects funded with both the federal-aid highway and transit act program funds.
4. The parties are committed to responding to questions, either individually or jointly as appropriate, within 14 days of the question being raised.

## **Air Quality Conformity Determinations**

### ***Background***

Section 176(c) of the Clean Air Act establishes conformity requirements for the long-range transportation plans, FTIPs, and projects in areas designated as nonattainment or maintenance. Section 176(d) of the Clean Air Act established priority requirements for programs supported by the federal government in order to provide for timely implementation of eligible portions of air quality plans. Section 109(j) of 23 USC established consistency requirements to assure that highways are consistent with approved plans for air quality.

### ***Roles and Responsibilities***

1. FHWA shall be the lead agency in reviewing and making air quality conformity determinations.
2. FHWA shall act on behalf of both parties in making air quality conformity determinations after consulting with and receiving concurrence from FTA.
3. Upon submission of the MPO air quality conformity documentation, the parties shall initiate a 30-day review period.
4. FHWA shall solicit comments from and coordinate the review with the Environmental Protection Agency (EPA) and FTA.
5. FTA shall advise FHWA of any concerns regarding the MPO's air quality conformity documentation within 20 days of its receipt.
6. FHWA shall initiate meetings, if necessary, to address concerns identified by EPA or FTA.
7. Upon receiving concurrence from EPA and FTA, FHWA shall coordinate and prepare a single signature letter issuing the parties' conformity determination.
10. The single signature letter issuing the determination shall mention the consultation between the parties and FTA's concurrence.
8. FHWA shall distribute the determination letter to the appropriate parties and provide a copy to FTA.
9. The parties are committed to issuing conformity determinations within 60 days of receiving the documentation from the MPO.

## **Dispute Resolution Process**

### ***Background***

Should the parties disagree or are unable to reach a consensus on any matter pertaining to the planning and programming activities covered by this MOU, the parties will follow the dispute resolution process described herein, as deemed appropriate.

### ***Roles and Responsibilities***

1. The parties' planning staff shall make every attempt to resolve disagreements within the time frames given in the roles and responsibilities section for each of the planning and programming activities.
2. The parties' planning staff shall elevate unresolved issues to their respective planning directors as soon as all attempts to resolve them have been exhausted or the time frame given for the relevant activity has lapsed, whichever comes first.

3. The parties' planning directors shall initiate a 10-day dispute resolution period once an unresolved issue is brought to their attention.
4. If the issue remains unresolved after 10 days, the planning directors shall elevate the issue to the FHWA Division and the FTA Regional Administrators.
5. The FHWA Division and FTA Regional Administrators shall initiate a 30-day dispute resolution period once an unresolved issue is brought to their attention.
6. Should the issue remain unresolved after 30 days, the administrators shall elevate the issue to their respective headquarters planning office (the Associate Administrator, Office of Planning, Environment and Realty at FHWA and the Director, Office of Systems Planning at FTA) for final resolution.
7. The parties shall make every attempt to resolve issues at the lowest level possible and in as timely a manner as possible.

We, the undersigned, agree to follow the general terms and conditions for collaboration between FHWA and FTA to enhance the coordination of transportation planning processes and to successfully fulfill our joint planning and programming responsibilities as outlined herein.

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Gene K. Fong	Date
Division Administrator	
Federal Highway Administration	

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Leslie T. Rogers	Date
Regional Administrator	
Federal Transit Administration	